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April 8, 2024

Honorable Michael E. Gans  
Clerk of the Court  
U.S. Court of Appeals for the Eighth Circuit  
111 South 10th St.  
St. Louis, MO 63102

Re: Pending Emergency Stay Motion in *Liberty Energy v. SEC*, No. 24-1624 (8th Cir.)

Mr. Gans:

The Securities and Exchange Commission previously declined—at least four times, including as recently as 12 days ago<sup>1</sup>—to stay its new climate rule. Late last week, however, the SEC suddenly changed position and voluntarily stayed the rule.

Pending before the Court is Liberty Energy Incorporated and Nomad Proppant Services LLC’s fully-briefed emergency stay motion.<sup>2</sup> Given the SEC’s voluntary stay, Liberty Energy and Nomad do not

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<sup>1</sup> In Fall 2022, undersigned counsel formally asked the SEC to “stay the effectiveness of the climate rule pending completion of all subsequent judicial review.” Comment, <https://www.sec.gov/comments/s7-10-22/s71022-20144376-309299.pdf>. The SEC declined. Then in March 2024, before filing a stay motion in the Fifth Circuit, undersigned counsel asked the SEC’s counsel whether the SEC would consent to a stay (the SEC again declined). Then the SEC filed a full-throated opposition to that stay motion in the Fifth Circuit. And then the SEC again insisted to this Court on March 27 that no stay was warranted.

<sup>2</sup> See Notice of Pending Emergency Motion, *Liberty Energy v. SEC*, No. 24-1624 (8th Cir. Mar. 6, 2024).

believe it is necessary for the Court to rule on that motion at the moment, but they also respectfully decline to withdraw that motion.

The Court may need to move quickly to grant emergency relief in the event the SEC's voluntary stay is lifted at a later date. And the SEC has already once dramatically and suddenly changed its position regarding a stay.

Further, if the SEC were to suddenly spring compliance and reporting deadlines to life if its voluntary stay is lifted, then Liberty (and others) would be forced to seek relief from this Court. In that scenario, registrants like Liberty Energy would have insufficient time to stand up the complex systems needed to capture data to review and prepare in subsequent filings.

For all these reasons, Liberty Energy and Nomad respectfully request that the Court carry their pending, fully-briefed emergency stay motion with the case.

/S/ R. McCOTTER  
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